

House Study Bill 113 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to sex offender registration requirements,
2 sexually violent predators, and the commission of the
3 offense of child endangerment by a sex offender, and
4 providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.101, subsection 14, Code 2019, is
2 amended to read as follows:

3 14. *"Incarcerated"* means to be imprisoned by placing a
4 person in a jail, prison, penitentiary, juvenile facility,
5 or other correctional institution or facility or a place or
6 condition of confinement or forcible restraint regardless
7 of the nature of the institution in which the person serves
8 a sentence for a conviction. "Incarcerated" does not mean
9 placement in an adult residential correctional or treatment
10 facility that allows a resident to leave the facility for a
11 portion of a day or days.

12 Sec. 2. Section 692A.101, subsection 31, Code 2019, is
13 amended by striking the subsection and inserting in lieu
14 thereof the following:

15 31. *"Sexually violent predator"* means a person who has
16 been determined to be a sexually violent predator pursuant to
17 section 229A.7.

18 Sec. 3. Section 692A.128, Code 2019, is amended to read as
19 follows:

20 **692A.128 Modification.**

21 1. A sex offender who is ~~on probation, parole, work release,~~
22 ~~special sentence, or any other type of conditional release on~~
23 the registry may file an application in district court seeking
24 to modify the registration requirements under [this chapter](#).

25 2. An application shall not be granted unless all of the
26 following apply:

27 a. The date of the commencement of the requirement to
28 register occurred at least ~~two~~ ten years prior to the filing
29 of the application for a tier I offender and ~~five~~ twenty-five
30 years prior to the filing of the application for a tier ~~II or~~
31 III offender.

32 b. The ~~sex offender~~ applicant has successfully completed all
33 sex offender treatment programs that have been required.

34 c. ~~A risk assessment has been completed and the sex offender~~
35 ~~was classified as a low risk to reoffend. The risk assessment~~

1 ~~used to assess an offender as a low risk to reoffend shall~~
2 ~~be a validated risk assessment approved by the department~~
3 ~~of corrections. The applicant has successfully completed~~
4 ~~any period of probation, parole, or other supervised release~~
5 ~~for the offense requiring registration, without incurring a~~
6 ~~revocation of probation, parole, or other supervised release~~
7 ~~for such offense.~~

8 ~~d. The ~~sex offender~~ applicant is not incarcerated when the~~
9 ~~application is filed.~~

10 ~~e. (1) The ~~director of the judicial district department~~~~
11 ~~~~of correctional services supervising the sex offender, or~~~~
12 ~~~~the director's designee, stipulates to the modification,~~~~
13 ~~~~and a certified copy of the stipulation is attached to the~~~~
14 ~~~~application. For a tier I offender, the applicant has had~~~~
15 ~~~~no other criminal convictions other than simple misdemeanor~~~~
16 ~~~~violations of chapter 321 or similar local violations for the~~~~
17 ~~~~ten-year period preceding the filing of the application.~~~~

18 ~~(2) For a tier III offender, the applicant has had no~~
19 ~~~~other criminal convictions other than simple misdemeanor~~~~
20 ~~~~violations of chapter 321 or similar local violations for~~~~
21 ~~~~the twenty-five-year period preceding the filing of the~~~~
22 ~~~~application, and the requirement to register is based upon an~~~~
23 ~~~~adjudication in juvenile court.~~~~

24 ~~3. The application shall be filed in the sex offender's~~
25 ~~county of principal residence.~~

26 ~~4. Notice of any application shall be provided to the~~
27 ~~county attorney of the county of the ~~sex offender's~~ applicant's~~
28 ~~principal residence, the county attorney of any county in~~
29 ~~this state where a conviction requiring the ~~sex offender's~~~~
30 ~~~~applicant's registration occurred, and the department. The~~~~
31 ~~county attorney where the conviction occurred shall notify the~~
32 ~~victim of an application if the victim's address is known.~~

33 ~~5. The court may, but is not required to, conduct a hearing~~
34 ~~on the application to hear any evidence deemed appropriate by~~
35 ~~the court. ~~The court may modify the registration requirements~~~~

1 under ~~this chapter~~.

2 6. a. ~~A sex offender may be granted a modification if the~~
3 ~~offender is required to be on the sex offender registry as a~~
4 ~~result of an adjudication for a sex offense, the offender is~~
5 ~~not under the supervision of the juvenile court or a judicial~~
6 ~~district judicial department of correctional services, and the~~
7 ~~department of corrections agrees to perform a risk assessment~~
8 ~~on the sex offender. However, all other provisions of this~~
9 ~~section not in conflict with this subsection shall apply to the~~
10 ~~application prior to an application being granted except that~~
11 ~~the sex offender is not required to obtain a stipulation from~~
12 ~~the director of a judicial district department of correctional~~
13 ~~services, or the director's designee. If the court grants a~~
14 ~~modification for a tier I offender, the court may modify the~~
15 ~~registration period by reducing such period by up to five~~
16 ~~years.~~

17 b. If the court grants a modification for a tier III
18 offender, the court may modify the registration period by
19 reducing such period to a term of years.

20 7. If the court modifies the registration requirements
21 under ~~this chapter~~, the court shall send a copy of the order to
22 the department, the sheriff of the county of the sex offender's
23 principal residence, any county attorney notified in subsection
24 4, and the victim, if the victim's address is known.

25 Sec. 4. Section 726.6, subsection 1, paragraph h, Code 2019,
26 is amended to read as follows:

27 h. Knowingly allows a person custody or control of, or
28 unsupervised access to a child or a minor after knowing the
29 person is required to register due to a conviction for a sex
30 offense against a minor or is on the sex offender registry as
31 a sex offender due to a conviction for a sex offense against
32 a minor under ~~chapter 692A~~. However, this paragraph does
33 not apply to a person who is a parent or guardian of a child
34 or a minor, ~~who is~~ and the parent or guardian is required
35 to register as a sex offender due to a conviction for a sex

1 offense against a minor, or to a person who is married to and
2 living with a person required to register as a sex offender due
3 to a conviction for a sex offense against a minor.

4 Sec. 5. Section 726.6, Code 2019, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 1A. A person who knowingly takes custody or
7 control of a child or minor, or who knowingly has unsupervised
8 access to a child or minor while required to register as a sex
9 offender for a sex offense against a minor under chapter 692A,
10 commits child endangerment. However, this subsection does not
11 apply to a person who is a parent or guardian of the child or
12 minor, or to a person who is married to and living with a person
13 who is the parent or guardian of the child or minor.

14 Sec. 6. Section 726.6, subsection 3, unnumbered paragraph
15 1, Code 2019, is amended to read as follows:

16 For the purposes of subsection 1 or 1A, *“person having*
17 *control over a child or a minor”* means any of the following:

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation’s substance by the members of the general assembly.

21 This bill relates to sex offender registration requirements,
22 sexually violent predators, and the commission of the offense
23 of child endangerment.

24 Currently, a person required to register as a sex offender
25 is not required to register while incarcerated including while
26 placed in a jail, prison, penitentiary, juvenile facility,
27 or other correctional institution or facility. The bill
28 amends the definition of “incarcerated” in Code chapter 692A
29 to specifically exclude placement in an adult residential
30 correctional or treatment facility that allows a resident to
31 leave the facility for a portion of a day or days. By excluding
32 placement in a residential correctional or treatment facility
33 from the definition of “incarcerated”, a sex offender placed
34 in an adult residential correctional or treatment facility is
35 required to register as a sex offender while placed at such a

1 facility.

2 The bill changes the definition of "sexually violent
3 predator" in Code chapter 692A (sex offender registry) to mean
4 a person who has been determined to be a sexually violent
5 predator pursuant to Code section 229A.7 (civil commitment
6 of sexually violent predator). Code section 229A.2 defines
7 "sexually violent predator" to mean a person who has been
8 convicted of or charged with a sexually violent offense and who
9 suffers from a mental abnormality which makes the person likely
10 to engage in predatory acts constituting sexually violent
11 offenses, if not confined in a secure facility. A sexually
12 violent predator is classified as a tier III offender under
13 Code chapter 692A and must register as a sex offender for life.

14 The bill amends Code section 692A.128 relating to the
15 filing of an application to modify sex offender registration
16 requirements. Currently, such an application shall not be
17 granted unless the date of the commencement of the requirement
18 to register occurred at least two years prior to the filing of
19 the application for a tier I offender and five years prior to
20 the filing of the application for a tier II or III offender.

21 The bill provides that an application to modify the
22 registration requirements by a tier I offender may be granted
23 if the requirement to register occurred at least 10 years prior
24 to the filing of the application, and for a tier III offender
25 such an application may be granted if the requirement to
26 register occurred at least 25 years prior to the filing of the
27 application. A tier II offender under the bill is no longer
28 eligible to file an application to modify the registration
29 requirements.

30 The bill and current law require other conditions be met
31 prior to granting an application to modify sex offender
32 registration requirements. The bill requires the applicant to
33 have successfully completed any period of probation, parole,
34 or other supervised release without incurring a revocation
35 of probation, parole, or other supervised release. The bill

1 requires the applicant to have no other criminal convictions
2 other than simple misdemeanor violations of Code chapter 321
3 or similar local violations for a 10-year period for tier I
4 offenders and for a 25-year period for tier III offenders
5 required to register as juvenile offenders. The bill strikes
6 the requirements that an applicant be assessed as a low risk to
7 reoffend and that the applicant's supervising agency stipulate
8 to the modification.

9 If the application is granted, the bill allows the court to
10 modify the registration period by reducing the registration
11 period by up to five years for a tier I offender and by allowing
12 the court to modify the registration period of a tier III
13 offender to a term of years.

14 The bill modifies the criminal offense of child endangerment
15 when allowing a sex offender access to a child or certain
16 minors. The bill specifies that a parent or guardian, or
17 person having custody or control over a child or a minor
18 under the age of 18 with a mental or physical disability, or
19 a person who is a member of the household in which a child
20 or such a minor resides, commits child endangerment, if the
21 person knowingly allows a person custody or control of, or
22 unsupervised access to a child or a minor after knowing the
23 person is required to register due to a conviction for a sex
24 offense against a minor or is on the sex offender registry due
25 to a conviction for a sex offense against a minor under Code
26 chapter 692A.

27 The bill also specifies that a person who knowingly takes
28 such custody or control or has such unsupervised access commits
29 child endangerment but does not commit such child endangerment,
30 if the person is the parent or guardian of the child or minor
31 and the parent or guardian is required to register as a sex
32 offender due to a conviction for a sex offense against a
33 minor, or if the person is married to and living with a person
34 required to register as a sex offender due to a conviction for
35 a sex offense against a minor.

H.F. _____

1 The penalties for a person who commits child endangerment
2 range from an aggravated misdemeanor to a class "B" felony
3 punishable by up to 50 years in prison.